

THE HONORABLE FRED VAN SICKLE

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Facsimile: 310-556-5959

Attorneys for Defendant  
Roth Capital Partners, LLC

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

In re METROPOLITAN SECURITIES  
LITIGATION

No. CV-04-0025-FVS

CLASS ACTION

DECLARATION OF LARRY Y.  
DANN, PH.D. IN SUPPORT OF  
DEFENDANT ROTH CAPITAL  
PARTNERS, LLC'S OPPOSITION TO  
PLAINTIFFS' MOTION TO  
EXCLUDE LARRY Y. DANN, PH.D.

ORAL ARGUMENT REQUESTED

Hearing Date: December 16, 2009  
Hearing Time: 9:00 a.m.

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

DECLARATION OF LARRY Y. DANN, PH.D.  
(Case No. CV-04-0025-FVS)

STROOCK & STROOCK & LAVAN LLP  
2029 Century Park East, Suite 1800  
Los Angeles, CA 90067 (310) 556-5800

1 I, Larry Y. Dann, hereby declare as follows:

2 1. I have been retained by Roth Capital Partners, LLC ("Roth") as an  
3 expert witness in the above-captioned matter. I have personal knowledge of the facts  
4 set forth in this declaration, and if called as a witness, I could and would competently  
5 testify to such facts. I submit this declaration in support of Roth's Opposition to  
6 Plaintiffs' Motion to Exclude my expert opinions and testimony.

7 2. I received a Ph.D. in Management (Finance) from the University of  
8 California, Los Angeles in 1980, and a MBA from Harvard University in 1969. I  
9 have been a professor of finance for more than 30 years, and currently I am the  
10 Richard W. Lindholm Professor Emeritus of Finance at the University of Oregon.  
11 During my career as a finance professor, I have taught numerous courses in advanced  
12 financial management, financial analysis and valuation, investments, and case  
13 problems in finance (presenting business situations that pose alternative courses of  
14 action) to undergraduate students, full-time MBA students, Executive MBA students  
15 and Ph.D. students. I have served as the associate editor of various journals,  
16 including *Journal of Financial and Quantitative Analysis*, *Accounting and Finance*,  
17 *Journal of Financial Economics*, and *Journal of Financial Research*.

18 3. I have lectured extensively on "financial distress" (a company's inability  
19 or difficulty satisfying its obligations to creditors) and bankruptcy in the courses I  
20 teach to undergraduate and graduate students. In lecturing on these issues, I rely on  
21 authoritative sources including a widely-used finance textbook, Brealey and Myers,  
22 *Principles of Corporate Finance*; Harvard Business School cases and notes related to  
23 bankruptcy issues such as "UAL, 2004: Pulling Out of Bankruptcy," "Sunbeam-  
24 Oster Company, Inc.," and "Note on Bankruptcy in the United States"; papers  
25 published by prominent academics concerning bankruptcy and financial distress  
26 issues such as Gilson, Stuart C., Managing Default: Some Evidence on How Firms  
27 Choose Between Workouts and Bankruptcy, *Journal of Applied Corporate Finance*,  
28 (Summer 1991, vol. 4, no. 2).

DECLARATION OF LARRY Y. DANN, PH.D.  
(Case No. CV-04-0025-FVS)

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4. I also lecture on "capital budgeting" (the process by which a company determines whether to undertake projects requiring capital investment, often involving an assessment of cash flows) and "real options analysis" (the process by which a company analyzes the risks and benefits of alternatives that are difficult to quantify). In teaching these topics, I use the *Principles of Corporate Finance* and academic papers published on real options analysis such as K. Hevert, "Real Options Primer: A Practical Synthesis of Concepts and Valuation Approaches," *Journal of Applied Corporate Finance*, (Summer 2001, vol. 14, no. 2).

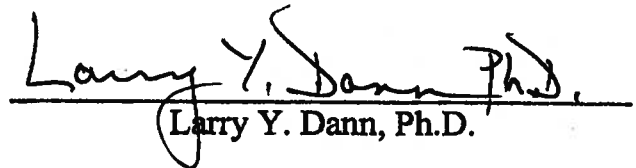
5. I also have been retained as an expert witness in more than 10 cases concerning securities, valuations and damages under Section 11 of the Securities Act of 1933 and Section 10b-5 of the Securities Exchange Act of 1934, among other topics. I have testified at trial and at a NASD hearing. My expert opinions and testimony have never been excluded.

6. Attached hereto as Exhibit 1 is a true and correct copy of my curriculum vitae, which was included in my August 3, 2009 Expert Report. My curriculum vitae includes my publications, presentations, awards, and my position as a manuscript referee for numerous publications.

7. Attached hereto as Exhibit 2 is a list of the documents I analyzed in my expert work in this case, which was included in my August 3, 2009 Expert Report.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 30th day of October 2009, at Eugene, Oregon.

  
Larry Y. Dann, Ph.D.

DECLARATION OF LARRY Y. DANN, PH.D.  
(Case No. CV-04-0025-FVS)

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CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2009 I electronically filed the foregoing document described as: DECLARATION OF LARRY Y. DANN, PH.D. IN SUPPORT OF DEFENDANT ROTH CAPITAL PARTNERS, LLC'S OPPOSITION TO PLAINTIFFS' MOTION TO EXCLUDE LARRY Y. DANN, PH.D. with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record on the CM/ECF for this litigation.

/s/ Mary D. Manesis  
Mary D. Manesis

STROOCK & STROOCK & LAVAN LLP  
2029 Century Park East  
Los Angeles, California 90067-3086

**CERTIFICATE OF SERVICE**

I hereby certify that on October 30, 2009 I electronically filed the foregoing document described as:

**DECLARATION OF LARRY Y. DANN, PH.D. IN SUPPORT OF  
DEFENDANT ROTH CAPITAL PARTNERS, LLC'S OPPOSITION TO  
PLAINTIFFS' MOTION TO EXCLUDE LARRY Y. DANN, PH.D.**

I electronically filed this document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

|                         |   |
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| E Joseph Giometti       | jgiometti@orrick.com,jcopoulos@orrick.com,<br>pbenetz@orrick.com              |
| Peter Jennings Grabicki | pjg@randanco.com,nlg@randanco.com,<br>scc@randanco.com                        |

DECLARATION OF LARRY Y. DANN, PH.D.  
(Case No. CV-04-0025-FVS)

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| 27 |                         |   |
| 28 |                         |   |

DECLARATION OF LARRY Y. DANN, PH.D. - 5 -  
(Case No. CV-04-0025-FVS)

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| 6  | F Mike Shaffer     | fshaffer@gth-law.com,ksnyder@gth-law.com                                 |
| 7  | James M Shaker     | shaker@ryanlaw.com,callahan@ryanlaw.com                                  |
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| 14 | Fabrice Vincent    | fvincent@lchb.com,dclevenger@lchb.com                                    |
| 15 | Leslie Richard     | lwlibertas@aol.com,emilyr@wkdtlaw.com,<br>janetj@wkdtlaw.com             |
| 16 | Weatherhead        |  |
| 17 | Tyler S Weaver     | tyler@hbsslw.com,jeniphr@hbsslw.com,bonney<br>m@hbsslw.com               |
| 18 | Diana Lynn Weiss   | dweiss@orrick.com  |
| 19 | Charles S Wright   | charleswright@dwt.com,terriray@dwt.com                                   |

/s/ Mary D. Manesis  
Mary D. Manesis

# EXHIBIT 1



**LARRY YORK DANN**

**Exhibit 1**

**Curriculum Vitae**

July 2009

OFFICE:

Lundquist College of Business  
1208 University of Oregon  
Eugene, Oregon 97403-1208  
(541) 346-3330  
Fax: (541) 346-3341  
E-mail: ldann@uoregon.edu

HOME:

965 E. 23<sup>rd</sup> Avenue  
Eugene, Oregon 97405-3074  
(541) 485-4696  
(541) 912-1289 mobile

EDUCATION:

|        |      |  |
|--------|------|--|
| Ph.D.  | 1980 | University of California, Los Angeles (Finance)    |
| M.B.A. | 1969 | Harvard Graduate School of Business Administration |
| B.S.   | 1967 | Northwestern University (Business Administration)  |

EMPLOYMENT HISTORY:

Professor of Finance Emeritus (2009-present), Lundquist College of Business  
Richard W. Lindholm Professor of Finance

Professor of Finance (1990-2009), Lundquist College of Business  
Richard W. Lindholm Professor of Finance and Taxation

Interim Associate Dean for Academic Affairs, Lundquist College of Business  
(September 2005 – May 2006)

Visiting Professor of Finance, University of Queensland, Brisbane, Australia  
(February – June 2005)

Visiting Professor of Finance, Aarhus School of Business, Aarhus, Denmark  
(February – March 1998)

Finance Department Head (1988-1991; 1992-1997)

Associate Professor of Finance (1984-1990)  
College of Business Administration, University of Oregon

Visiting Assistant Professor of Finance (1983-1984)  
Graduate School of Business, University of Chicago

Associate Professor of Finance (on leave, 1983-1984)  
Assistant Professor of Finance (1977-1983)  
College of Business Administration, University of Oregon

Teaching Assistant in Finance (1972-1974)  
Graduate School of Management, University of California, Los Angeles

Instructor in Finance (part-time, 1972-1976)  
Instructor in Accounting (1969-1972)  
School of Business, Southern Illinois University-Edwardsville

RESEARCH INTERESTS:

Corporate Finance and Corporate Governance

Page 1

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## LARRY YORK DANN

## Exhibit 1

COURSES TAUGHT:

Introduction to Corporate Finance  
Advanced Financial Management  
Financial Analysis and Valuation  
Case Problems in Finance  
Concepts of Investments  
Ph.D. Seminar in Finance -Theory  
Ph.D. Seminar in Finance - Empirical

PUBLICATIONS:

"Governance and Boards of Directors in Closed-End Investment Companies", Journal of Financial Economics, (July 2003, 111-152), with Diane Del Guercio and M. Megan Partch.

"Managerial Opportunism? Evidence from Directors' and Officers' Insurance Purchases", Journal of Finance, (April 2002, 609-636), with John M. R. Chalmers and Jarrad Harford.

"Highly Leveraged Transactions and Managerial Discretion over Investment Policy: An Overview", Journal of Accounting and Economics, (January/April/June 1993, 237-240).

"Repurchase Tender Offers and Earnings Information", Journal of Accounting and Economics, (September 1991, 217-251), with David Mayers and Ronald W. Masulis.

"Corporate Financial Policy and Corporate Control: A Study of Defensive Adjustments in Asset and Ownership Structure", Journal of Financial Economics (January/March 1988, 87-127), with Harry DeAngelo.

"Convertible Debt Issuance, Capital Structure Change and Financing-Related Information: Some New Evidence", Journal of Financial Economics (June 1984, 157-186), with Wayne H. Mikkelson.

Also appears in Proceedings of the Seminar on the Analysis of Security Prices, Center for Research in Security Prices, University of Chicago, May 1984.

"Standstill Agreements, Privately Negotiated Stock Repurchases, and the Market for Corporate Control", Journal of Financial Economics (April 1983, 275-300), with Harry DeAngelo.

"An Analysis of the Impact of Deposit Rate Ceilings on the Market Values of Thrift Institutions", Journal of Finance (December 1982, 1259-1275), with Christopher M. James.

"Common Stock Repurchases: What Do They Really Accomplish?", Chase Financial Quarterly (Summer 1982, 29-43).

Adapted and republished under the title "Is Your Common Stock Really Worth Buying Back?", Directors and Boards (Summer 1983, 23-29).

"Common Stock Repurchases: An Analysis of Returns to Bondholders and Stockholders", Journal of Financial Economics (June 1981, 113-138).

Reprinted in The Modern Theory of Corporate Finance, edited by Michael C. Jensen and Clifford W. Smith, Jr., McGraw-Hill, New York, 1984, pp. 560-585.

**LARRY YORK DANN**

**Exhibit 1**

PUBLICATIONS (continued):

"Trading Rules, Large Blocks and the Speed of Price Adjustment", Journal of Financial Economics (January 1977, 3-22), with David Mayers and Robert J. Raab, Jr.

RESEARCH IN PROGRESS:

"Corporate Takeovers and Target Firm Responses: Do White Knights Serve Target Firm Managers' Self-Interests?", with David Mayers.

PRESENTATIONS AT PROFESSIONAL MEETINGS:

"Governance and Boards of Directors in Closed-End Investment Companies", with Diane Del Guercio and M. Megan Partch, presented at the European Finance Association Meetings, Berlin, Germany, August 2002.

"Tests of Earnings Information in Capital Structure Announcements," presented at the Western Finance Association Meetings, Seattle, WA, June 1989.

"Corporate Financial Policy and Corporate Control: A Study of Defensive Adjustments in Asset and Ownership Structure", presented at the American Finance Association Meetings, New Orleans, LA, December 1986.

"Corporate Financial Policy and Corporate Control: A Study of Defensive Adjustments in Asset and Ownership Structure", presented at the Seminar on the Analysis of Security Prices, Center for Research in Security Prices, University of Chicago, May 1986.

"Convertible Debt Issuance, Capital Structure Change and Financing-Related Information: Some New Evidence", presented at the Seminar on the Analysis of Security Prices, Center for Research in Security Prices, University of Chicago, May 1984.

PH.D. THESIS:

"The Effect of Common Stock Repurchase on Securityholder Returns", supervised by David Mayers (Chairman), Harold Demsetz, Michael Intriligator, Clement G. Krouse, and J. Fred Weston.

AWARDS:

The Harry R. Jacobs, Jr. Professional Service Award, University of Oregon, Spring 2009  
The Harry R. Jacobs, Jr. Professional Service Award, University of Oregon, Spring 2007  
Business Advisory Council Undergraduate Teaching Award, University of Oregon, Fall 2003  
Business Advisory Council Undergraduate Teaching Award, University of Oregon, Fall 2000  
The Harold K. Strom College Service Award, University of Oregon, 1996-97  
P.W. Pipe Outstanding Faculty Award, University of Oregon, 1995-96  
The Harold K. Strom College Service Award, University of Oregon, 1993-94  
P.W. Pipe Outstanding Faculty Award, University of Oregon, 1993-94  
P.W. Pipe Outstanding Faculty Award, University of Oregon, 1990-91  
P.W. Pipe Outstanding Faculty Award, University of Oregon, 1988-89  
Chancellor's Dissertation Fellowship, 1976-77  
Chancellor's Intern Fellowship, 1972-75  
Jewel Companies Scholarship, 1963-67  
Beta Alpha Psi (Accounting Honorary)

Page 3

**LARRY YORK DANN**

**Exhibit 1**

**PROFESSIONAL DEVELOPMENT:**

Certified Public Accountant (inactive), State of Illinois

**PROFESSIONAL ACTIVITIES:**

Chair, Oregon University System Retirement Investment Committee, (2007-present)  
Associate Editor, Journal of Financial and Quantitative Analysis, (1985-2005)  
Associate Editor, Accounting and Finance, (1998-2002)  
Associate Editor, Journal of Financial Economics, (1987-1998)  
Associate Editor, Journal of Financial Research, (1987-1994)  
Director, Western Finance Association, (1986-1990)  
Western Finance Association Program Committee, (1985-1990)

Manuscript referee for:

Journal of Financial Economics  
Journal of Finance  
Journal of Business  
Review of Financial Studies  
Journal of Financial and Quantitative Analysis  
Journal of Financial Intermediation  
Journal of Accounting Research  
Journal of Accounting and Economics  
Accounting Review  
Journal of Financial Research  
Financial Analyst's Journal  
Financial Management  
Journal of Bank Research  
Journal of Banking and Finance

Invited participant, National Bureau of Economic Research conference on "Concentrated Ownership", Banff, Alberta, Canada, May-June, 1998.

Invited participant, Journal of Accounting and Economics/KPMG Peat Marwick/Olin Conference (University of Rochester) on "Managerial Incentives and Corporate Performance", Rochester, NY, November 1991.

Invited participant, Garn Institute of Finance Conference on "The Role of Banks in the Capital Acquisition Process", Snowbird, UT, September 1989.

Invited participant, Garn Institute of Finance Conference on "Restructuring of Corporate America", Washington, D. C., September 1987.

Participant, Journal of Financial Economics/Managerial Economics Research Center (University of Rochester) Conference on "The Distribution of Power Among Corporate Managers, Shareholders and Directors", Rochester, NY, May 1987.

Invited participant, "Law Institute for Economists", sponsored by the Law and Economics Center (Emory University), Hanover, NH, June-July 1985.

Participant, Journal of Financial Economics/Managerial Economics Research Center (University of Rochester) Conference on "Investment Banking and the Capital Acquisition Process", Rochester, NY, April 1985.

**LARRY YORK DANN****Exhibit 1****PROFESSIONAL ACTIVITIES (continued):**

Participant, Liberty Fund/Managerial Economics Research Center (University of Rochester) Conference on "The Market for Corporate Control: The Scientific Evidence", Rochester, NY, April 1983.

Lecturer, "Executive Seminar Series", sponsored by the College of Business Administration, University of Oregon, August 1982 and October 1983.

Expert witness: Cases involving financial contract valuation, portfolio management, investment suitability, valuation consequences of corporate stock repurchase activity, municipal taxation of business activity, corporate performance and director responsibility.

Consultant: Valuation of closely held firms, portfolio management, valuation of financial claims, evaluation of investment forecasting model, investment performance, executive stock option plans, estimated damages in alleged securities fraud litigation, estimated damages from disagreement over loan repayment provisions.

**PERSONAL:**

Birthdate – 22 April 1945  
U. S. Citizen

# EXHIBIT 2

Exhibit 2

Documents Considered

| Title           | Date |
|-----------------|------|
| RCP000978       |      |
| RCP000932       |      |
| RCP056197       |      |
| RCP057073       |      |
| RCP002730       |      |
| RCP000001       |      |
| RCP000509 - 11  |      |
| RCP001996 - 8   |      |
| RCP000501 - 8   |      |
| RCP000512 - 20  |      |
| RCP002020 - 7   |      |
| RCP000485 - 93  |      |
| RCP002034 - 42  |      |
| RCP000476 - 82  |      |
| RCP000484       |      |
| RCP000458 - 66  |      |
| RCP000468 - 75  |      |
| RCP002173 - 81  |      |
| RCP002189 - 92  |      |
| RCP002193 - 201 |      |
| RCP002212 - 20  |      |
| RCP002005 - 13  |      |
| RCP002224 - 32  |      |
| RCP002161 - 9   |      |
| RCP002145 - 53  |      |
| RCP004091 - 9   |      |
| RCP002124 - 32  |      |
| RCP002133 - 41  |      |
| RCP002103 - 11  |      |
| RCP002112 - 20  |      |
| RCP002094 - 102 |      |
| RCP002085 - 93  |      |

EXHIBIT 2 PAGE 14



## Exhibit 2

## Documents Considered

| Title                 | Date |
|-----------------------|------|
| RCP002073 - 81        |      |
| RCP002061 - 9         |      |
| RCP002052 - 60        |      |
| RCP-MET 001646 - 8    |      |
| RCP-MET 001833 - 5    |      |
| RCP-MET 001663 - 71   |      |
| RCP-MET 001602 - 4    |      |
| RCP-MET 001793 - 1801 |      |
| RCP-MET 001714 - 22   |      |
| RCP-MET 001803 - 11   |      |
| RCP-MET 001687 - 95   |      |
| RCP-MET 001599 - 601  |      |
| RCP-MET 001696 - 704  |      |
| RCP-MET 001756 - 8    |      |
| RCP-MET 001675 - 83   |      |
| RCP-MET 001684        |      |
| RCP-MET 001608 - 16   |      |
| RCP-MET 001821 - 3    |      |
| RCP-MET 001672 - 4    |      |
| RCP-MET 001655 - 62   |      |
| RCP-MET 001649 - 54   |      |
| RCP-MET 001761 - 9    |      |
| RCP-MET 001770 - 2    |      |
| RCP-MET 001789 - 92   |      |
| RCP-MET 001723 - 5    |      |
| RCP-MET 001735 - 43   |      |
| RCP-MET 002538 - 40   |      |
| RCP-MET 001726 - 34   |      |
| KR019500 - 2          |      |
| KR019558 - 61         |      |
| KR019566 - 68         |      |
| KR019578 - 80         |      |

EXHIBIT 2 PAGE 15

Exhibit 2

## Documents Considered

| Title          | Date |
|----------------|------|
| KR019581 - 2   |      |
| KR019593 - 600 |      |
| KR019636 - 640 |      |
| KR019604 - 6   |      |
| KR019643 - 6   |      |
| KR019659 - 62  |      |
| KR019663 - 5   |      |
| KR019688 - 92  |      |
| KR019695 - 8   |      |
| KR019700 - 2   |      |
| KR020020 - 1   |      |
| KR019383 - 9   |      |
| KR019785 - 95  |      |
| KR019728       |      |
| KR020112 - 3   |      |
| KR020111       |      |
| KR019747 - 57  |      |
| KR020041 - 2   |      |
| KR019342       |      |
| KR019345 - 8   |      |
| RCP041744 - 52 |      |
| KR019365 - 6   |      |
| KR019367 - 8   |      |
| KR019371       |      |
| KR019372       |      |
| KR019373 - 4   |      |
| KR019375 - 9   |      |
| RCP041658 - 61 |      |
| KR019340 - 1   |      |
| KR019351 - 60  |      |
| KR019361 - 4   |      |
| KR019392 - 411 |      |

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Documents Considered

| Title       | Date |
|-------------|------|
| DX No. 2593 |      |
| DX No. 2594 |      |
| DX No. 2595 |      |
| DX No. 2596 |      |
| DX No. 2597 |      |
| DX No. 2598 |      |
| DX No. 2599 |      |
| DX No. 2600 |      |
| DX No. 2601 |      |
| DX No. 2602 |      |
| DX No. 2603 |      |
| DX No. 2604 |      |
| DX No. 2605 |      |
| DX No. 2606 |      |
| DX No. 2607 |      |
| DX No. 2608 |      |
| DX No. 2609 |      |
| DX No. 2660 |      |
| DX No. 2661 |      |
| DX No. 2662 |      |
| DX No. 2663 |      |
| DX No. 2664 |      |
| DX No. 2665 |      |
| DX No. 2666 |      |
| DX No. 2667 |      |
| DX No. 2668 |      |
| DX No. 2669 |      |
| DX No. 2670 |      |
| DX No. 2671 |      |
| DX No. 2672 |      |
| DX No. 2673 |      |
| DX No. 2680 |      |

## Documents Considered

Exhibit 2

| Title   | Date       |
|---|------------|
| DX No. 2681   |            |
| DX No. 2687   |            |
| DX No. 2694   |            |
| DX No. 2695 A   |            |
| DX No. 2695   |            |
| DX No. 2696   |            |
| DX No. 2697   |            |
| DX No. 2698   |            |
| DX No. 2699   |            |
| DX No. 2700   |            |
| DX No. 2731   |            |
| ROTHSCHILD 000502 - 7   |            |
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| In re: Metropolitan Mortgage & Securities Co., Inc. Consolidated and Fourth Amended Class Action Complaint for Violations of the Securities Act of 1933 and Washington Securities Act | 6/2/2008   |
| In re: Metropolitan Securities Litigation Consolidated and Fourth Amended Class Action Complaint for Violation of the Securities Act of 1933 and Washington Securities Act            | 2/4/2004   |
| Expert Report of Jane D. Nettesheim and backup  | 6/26/2009  |
| Deposition of Tes Strunk and exhibits   | 7/29/2008  |
| Deposition of Margaret Lyons and exhibits   | 4/28/2009  |
| Deposition of Stephen Ledoux and exhibits   | 4/24/2009  |
| Center for Research in Security Prices ("CRSP")   |            |
| MIS Database  |            |
| SEC Filings by Metropolitan Mortgage & Securities Co., Inc. and Summit Securities, Inc.   |            |
| News articles about Metropolitan Mortgage & Securities Co., Inc. and Summit Securities, Inc.  |            |
| Securities Act of 1933, Section 11(e)   |            |
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| Mike Kreidler, Insurance Commissioner v. Western United Life Assurance Company, Third Report of Receiver  | 10/3/2005  |
| Mike Kreidler, Insurance Commissioner v. Western United Life Assurance Company, Fifth Report of Receiver  | 10/2/2006  |

Exhibit 2

**Documents Considered**

| Title  | Date                    |
|--|-------------------------|
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